

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

SOUTHERN COAL SALES  
CORPORATION,

Plaintiff,

vs.

XCOAL ENERGY & RESOURCES,  
XCOAL ENERGY & RESOURCES LLC,  
and ERNIE L. THRASHER

Defendants.

Misc. Case No. \_\_\_\_\_

Relates to Action No. 7:12-cv-265 Pending  
in the United States District Court for the  
Western District of Virginia, Roanoke  
Division

**MOTION TO QUASH NON-PARTY SUBPOENA TO ROSEBUD MINING  
COMPANY OR, IN THE ALTERNATIVE, FOR PROTECTIVE ORDER**

Defendants Xcoal Energy & Resources, Xcoal Energy & Resources, LLC, and Ernie L. Thrasher, by and through their undersigned counsel and pursuant to Federal Rules of Civil Procedure 26 and 45, hereby move to quash the subpoena served on Rosebud Mining Company in the above-referenced matter or, in the alternative, respectfully request that this Court enter a protective order prohibiting the disclosure of confidential and/or proprietary information belonging either to Rosebud Mining Company or Defendants in response to the subpoena. In support of this Motion, Defendants are filing the accompanying Memorandum of Law and Affidavit of Frank Kozlesky. A proposed Order is attached hereto.

DATED this 13th day of November, 2012.

Respectfully submitted,

By: /s/ Christopher A. Amar

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*Counsel for Defendants Xcoal Energy &  
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LLC, and Ernie L. Thrasher*